



BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

FILED

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Order Instituting Rulemaking Regarding Policies,
Procedures and Rules for the Low Income Energy
Efficiency Programs of California's Energy Utilities.

Rulemaking 07-01-042

Southern California Edison Company's (U 338-E)
Application for Approval of SCE's "Change a Light,
Change the World," Compact Fluorescent Lamp Program.

Application 07-05-010

**The Opening Comments of
the Association of California Community and Energy Services on the
Proposed Decision of Commissioner Dian Grueneich and Administrative Law Judge
(ALJ) Kim Malcolm Providing Direction for Low Income Energy Efficiency Policy
Objectives, Program Goals, Strategic Planning, and the 2009 – 2011 Program
Portfolio and Addressing Renter Access and Assembly Bill 2140 Implementation.**

In accordance with the Commission's Rules of Practice and Procedure, the Association of California Community and Energy Services (ACCES) submits these Opening Comments.

Need for Clarification

The portion of the Proposed Decision (PD) which we will discuss first states, "We agree with SWGas [Southwest Gas] that, notwithstanding the types of *measures* that might be employed to achieve the programmatic initiative or the criteria for what *measures* to employ, the utilities should be permitted to take the following steps in homes where they are installing LIEE *measures*:"

"Modifying the premises or installing equipment that would reduce or eliminate a hazardous condition where the equipment or modification is related to the LIEE *measure*, and"

"Modifying the premises or installing equipment that would conform the premises to existing building codes and standards where the equipment or modification is related to the LIEE *measure*." PD. 30 -31 (emphasis added).

First, as we will explain below, we assume this section of the PD includes furnace and water heater repair and or replacement because the comments of Southwest Gas to which the PD refers discusses “improper venting, [and] faulty natural gas appliances.” If our assumption is correct, then we believe the Commission should be more specific in its reference to the items in the record which support this portion of the PD so as to more clearly convey the Commission’s intent in relation to furnace and water heater repair and replacement.

Next, because the word “measure” has a specific meaning in the LIEE policies and procedures, the Commission should clarify its intent of this part of the decision as it relates to furnace and water heater repair and replacement.

And finally, if our above-stated assumption is true, then this portion of the PD, which would allow “modifying the premises or installing equipment” under conditions which are currently not allowed under existing NGAT protocols, is in conflict with the PD language on PD page 73 which states,

“On the question of whether the utilities should install infiltration measures where the property fails the NGAT, we are not prepared to modify existing policy because of our concerns over resident safety. Accordingly, the *utilities shall continue to employ the NGAT protocols adopted in D.00-07-020*, both for rental and owner-occupied households.” (emphasis added).

If our assumption is incorrect, the Commission should clearly explain to which portion of the LIEE measures or items this section of the decision refers and clearly state any restrictions.

Discussion: Reference to “natural gas appliances”

We presume that where the PD states on page 30, “We agree with SWGas that ... the utilities should be permitted to take the following steps in homes where they are installing LIEE measures: ...” the PD is referring to “SOUTHWEST GAS CORPORATION (U 905 G) COMMENTS ON THE SCOPING RULING FOR THE COMMISSION’S RULEMAKING ON THE LOW-INCOME ENERGY EFFICIENCY PROGRAMS OF CALIFORNIA’S ENERGY UTILITIES” dated April 27, 2007, page 2, in which Southwest Gas writes, “In some cases, a home in need of assistance may have an unsafe or hazardous condition which must be addressed before most energy efficiency measures can be installed. There may be homes that need to be brought up to the current

building code(s) before any weatherization measures can be installed. Examples may include *improper venting, faulty natural gas appliances, and structural damage.*” (emphasis added). This passage is clearly related to furnaces and water heaters.

SWGas also makes furnace-related statements consistent with the above cited section of the PD in “RESPONSE OF SOUTHWEST GAS CORPORATION (U 905 G) ON THE SEPTEMBER 27, 2007, ADMINISTRATIVE LAW JUDGE’S RULING SEEKING COMMENTS ON ISSUES RAISED IN THE KEMA REPORT AND ON NATURAL GAS APPLIANCE TESTING ISSUES” dated October 16, 2007.” Therein, on pages 2 and 3, concerning “NGAT Issues,” SWGas writes, “... under the current program, there are many obstacles to repair or replacement of those dangerous appliances; thus, it may be necessary for contractors to cap and abandon appliances, which the low-income customers cannot readily afford to repair or which a landlord may choose to ignore...” “...the current testing also precludes the installation of infiltration reduction measures if the gas appliance may not be repaired/replaced.”

It is clear the major items in the SWGas recommendations were furnace-related. The Commission decision would be strengthened by more specificity in this regard.

ACCES, too, has furnace-related comments in the record of this proceeding in “The Joint Opening Comments of the Association of California Community and Energy Services and A W.I.S.H on Natural Gas Testing Issues and Issues Raised in the KEMA Report” in which we write, “...it is not the NGAT with which we have a problem, it is the limitations on what can be done to correct the problems we discover during NGAT. The current NGAT process does not allow LIEE contractors to correct all the hazardous conditions they find in LIEE eligible homes. The menu of repairs does not address all the options to fix the problems. Instead, LIEE policies and procedures require LIEE contractors to install water measures and leave the home with a hazardous condition.”

P.4.

Discussion: LIEE Definition of “Measure.”

The word “measure” has a specific meaning in the LIEE policies and procedures. Under the current LIEE policies and procedures neither furnace nor water heater repair and/or replacement is considered a “measure.” Two years ago the Commission accepted the recommendation of the Standardization Team to no longer consider furnace and water

heater repair and replacement as LIEE “measures” for purposes of the “three measure minimum” required to be reached before a home may be weatherized. Instead those items are included as part of “minor home repair.” (see Low Income Energy Efficiency Program Statewide Policy and Procedures Manual, 2.9 Need for LIEE Services). The Commission should clarify that “measures” in this section of the PD (p. 30 – 31) includes furnace and water heater repair and replacement or recategorize furnace and water heater repair/replacement as a “measure.”

In fact, the “three measure minimum” currently required in the LIEE program may be rendered obsolete by the PD. We recommend that a reexamination of the role of the Three Measure Minimum be a workshop topic.

Discussion: Conflict between pages 30 – 31 and page 73: Continuing to employ the NGAT protocols adopted in D.00-07-020.

The current NGAT protocols adopted in D.00-07-020 describe a series of conditions which result in NGAT failure and do not allow the LIEE contractor to modify the premises to correct the condition and, instead, require LIEE contractors to walk away from the dwelling. But the section of the PD under discussion (p. 30 – 31) would allow modifications of the premises which are currently not allowed under the current NGAT protocols. This is in conflict with the PD language on page 73 which states,

“On the question of whether the utilities should install infiltration measures where the property fails the NGAT, we are not prepared to modify existing policy because of our concerns over resident safety. Accordingly, *the utilities shall continue to employ the NGAT protocols adopted in D.00-07-020, both for rental and owner-occupied households.*” (emphasis added).

The PD should be modified to eliminate this conflict.

Elimination of the 10 year “Go Back” rule.

While we support this point, it raises the question of when a low income dwelling can or cannot be served again in the LIEE program. Is there to be any limitation? For example, may a dwelling be eligible for new measures anytime? And, again, will the Three Measure Minimum still be required? The PD should clarify this issue.

The PD misstates ACCES’ Position on “Leveraging”

The PD misstates our position on Leveraging by implying we ask that LIHEAP funds be contributed to the LIEE program. Our position, in the record of this proceeding, is the opposite.

Section 4.3.3. of the PD, “Leveraging Available Resources” incorrectly describes ACCES’ position on leveraging, “ACCES recommends the utilities take advantage of funding *from* the Low Income Household Energy Assistance Program (LIHEAP), the federal Department of Energy’s Weatherization program, community development block grants, municipal utility and local programs, and the CSI.” (emphasis added). This incorrectly states ACCES’ position on leveraging in a small but important way.

In our comments on LIEE program goals and objectives we wrote, “the program shall strive to *leverage utility-provided LIEE funds with funds* from the LIHEAP program, the US Department of Energy Weatherization Program, Community Development Block Grant, other federal block grants, municipal utility energy efficiency programs, the California Solar Initiative, and other state and federal program.” (emphasis added).

We further clarified our Leveraging position in our comments on NGAT Issues and the KEMA report: “The fundamental concept is for the LIEE program to contribute to the LIHEAP program which is serving low income utility customers, not the other way around. An example of ‘leveraging’ are the ‘leveraging programs’ of PG&E and SCE in which the companies use LIEE funds to pay for the purchase and installation of refrigerators and/or CFLs in LIEE qualified homes which are being served by the LIHEAP contractors in the LIHEAP program.”

The PD should be modified to correctly state the position of ACCES on the issue of leveraging.

Filing Schedule

The PD requires the four major utilities to file by February 1, 2008, “a draft statewide strategic long-term plan, consistent with Decision (D.) 07-10-032, that includes a plan to achieve the Low Income Energy Efficiency (LIEE) programmatic initiative adopted here. The plan shall include policies and program elements discussed herein. The utilities’ final proposed statewide strategic plan shall include a discussion of LIEE program strategies and shall be filed consistent with D.07-10-032.”

The February 1, 2008 deadline provides too little time to get public input from parties before submitting the plan to the Commission. The Commission should allow more time for public input *before* the utilities submit their plan.

In addition, it is especially important the parties have an opportunity for input on the Commission's order #3, to "Propose a portfolio that identifies the benefit-cost ratio for each program and a justification for each program that is not cost-effective, as required in D.02- 08-034 and according to the Commission's cost-effectiveness methodology," in order to make a case to justify non-cost-effective measures.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "James Hodges".

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December 10, 2007

CERTIFICATE OF SERVICE

I hereby certify, pursuant to the Commission's Rules of Practice and Procedure, that I have this day served a true copy of the "The Opening Comments of the Association of California Community and Energy Services on the Proposed Decision of Commissioner Dian Grueneich and Administrative Law Judge (ALJ) Kim Malcolm Providing Direction for Low Income Energy Efficiency Policy Objectives, Program Goals, Strategic Planning, and the 2009 - 2011 Program Portfolio and Addressing Renter Access and Assembly Bill 2140 Implementation."

[X] By first class U.S. mail, postage prepaid, to the Administrative Law Judge assigned to this proceeding, to the Assigned Commissioner, and to all parties listed with no e-mail address on the official service list referred to below.

AND

[X] By Electronic Mail – serving the enclosed via e-mail transmission to each person the application lists as being authorized to receive service and to those on the service list of R. 07-01-042.

Dated at Sacramento, California this 10th day of December, 2007.



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Service Lists

Proceeding: R0701042 - CPUC - PG&E, EDISON,
Filer: CPUC - PG&E, EDISON, SOCALGAS, SDG&E
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